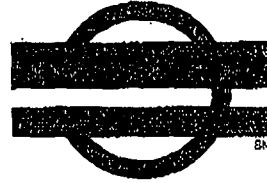


U T A



SDMS Document ID



1005111

FACSIMILE TRANSMITTAL SHEET

ADMINISTRATIVE RECORD

TO:	Floyd Nichols	FROM:	Grantley Martelly
COMPANY:	EPA, Region VIII	DATE:	9/18/2003
FAX NUMBER:	303-312-6962	TOTAL NO. OF PAGES INCLUDING COVER:	7
PHONE NUMBER:	303-312-6983	SENDER'S REFERENCE NUMBER:	
RE:	Access Agreement for 147 S. 400 W., SLC, UT	YOUR REFERENCE NUMBER:	801-287-3059

☒ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☒ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Floyd,

Please have the appropriate person in your organization read and sign this access agreement and fax back the signature page to me. This is the Access Agreement that UTA needs to use.

IMPORTANT: The information in this e-mail is an attorney-client communication, and therefore, privileged. It is intended only for the use of the addressee. If you receive this communication and are not the intended recipient, you are hereby notified that the copying or distribution of this communication is prohibited. If you have received this communication in error, please delete it and notify us by telephone.

ACCESS AGREEMENT

This Access Agreement (the "Agreement") is entered into this ___ day of September, by and between the United States Environmental Protection Agency ("USEPA"), on behalf of USEPA and its contractor, John A. Volpe Transportation Systems Center ("Volpe Center"), and the Utah Transit Authority ("UTA").

RECITALS

WHEREAS, USEPA is charged with undertaking environmental response and enforcement responsibilities under federal law;

WHEREAS, USEPA has requested access to the Property to permit USEPA and its employees, authorized agents, contractors, and subcontractors, to perform certain sampling activities on and near property leased by UTA from PacifiCorp, and described in Attachment A to this Agreement (the "Property");

WHEREAS, in the spirit of cooperation with a federal agency, and subject to the following terms and conditions, UTA is agreeable to such access.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants, conditions and promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. UTA hereby grants USEPA and its employees, authorized agents, contractors, and subcontractors, reasonable access to the Property for the purposes of entering on and moving about the Property as reasonably required in order to perform the sampling activities described in connection with the Property in the *Revision 1 - Sampling and Analysis Plan for Libby Sister Sites (Asbestos Project) Former Vermiculite Intermountain Facility - SLC2, Salt Lake City Utah* (the "Sampling Activities") provided to UTA, as modified by the comments of UTA acknowledged in the August 19, 2003 electronic message of Floyd Nichols to Grantley Martelly.
2. USEPA assumes all risk of loss and indemnifies and holds harmless UTA, and its employees, trustees, agents, and representatives, from and against all costs, losses, claims, damages, or expenses, including reasonable attorney fees, arising out of or in connection with the Sampling Activities. In the event that any demand or claim is made, or suit is commenced against UTA, UTA will promptly notify USEPA and USEPA will have the right and duty to compromise or defend the demand, claim, or suit.
3. USEPA acknowledges that it may retain contractors to perform the Sampling Activities, and USEPA shall cause all such contractors to maintain insurance in an amount adequate to cover any reasonably foreseeable liabilities, damages, or injury to persons or property which may result from the Sampling Activities.

4. This Agreement shall take effect on September 23, 2003, and shall continue until the earliest of the following events: (a) three (3) months following such date, or (b) USEPA completes the Sampling Activities that relate to the Property. At least ten (10) hours before USEPA or its employees, authorized agents, contractors, or subcontractors enter Property on any given day for purposes permitted under this Agreement, USEPA will notify the UTA contact in accordance with paragraph (8) of this Agreement.

5. USEPA and its employees, authorized agents, contractors, and subcontractors shall make every reasonable effort to minimize any disruption to UTA's use of the Property while they are accessing, and carrying out the Sampling Activities on, the Property, and shall perform the Sampling Activities with care, diligence, and cooperation with UTA while they are accessing, and carrying out the Sampling Activities on, the Property. Upon completion of the Sampling Activities permitted under this Agreement, USEPA shall restore the Property to substantially the same condition that existed before USEPA's access to the Property.

6. Various utilities, structures, and electrical conduits may exist on, over and under the surface of the Property. Prior to commencing any work authorized under this Agreement, USEPA shall properly investigate and determine the location of all such utilities, structures, and electrical conduits.

7. USEPA will provide to UTA a copy of the written findings and analysis that result from the Sampling Activities relating to the Property.

8. All notices, requests, and other communications pursuant to this Agreement shall be made in writing and sent by facsimile transmission, certified mail, return receipt requested, or by hand delivery, to:

For UTA:

Grantley Martelly, Environmental Compliance Administrator
Utah Transit Authority
3600 South 700 West
P.O. Box 30810
Salt Lake City, Utah 84119
Fax (801) 287-4618

For USEPA:

Floyd Nichols
United States Environmental Protection Agency, Region 8
999 18th Street, Suite 300
EPR-SA-ER
Denver, Colorado 80202-2466

9. USEPA acknowledges that UTA is a governmental entity covered under the provisions of the Utah Governmental Immunity Act, Section 63-30-1 to 63-30-38, Utah Code Annotated 1953, as amended. By this Agreement, UTA does not waive any provision of this Act or any similar statutory damage limitation provision. USEPA acknowledges that nothing in this Agreement should be construed as waiver of any provision of this Act or of any similar statutory damage limitation provision.

10. The signatories to this Agreement hereby warrant that they are authorized to bind USEPA and UTA, respectively to the terms of this Agreement.

11. This Agreement may be executed in any number of counterparts and by either party hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed on the day and year first herein written.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By: _____
Floyd Nichols
On-Scene Coordinator
Region 8

UTAH TRANSIT AUTHORITY

By: _____

By: _____

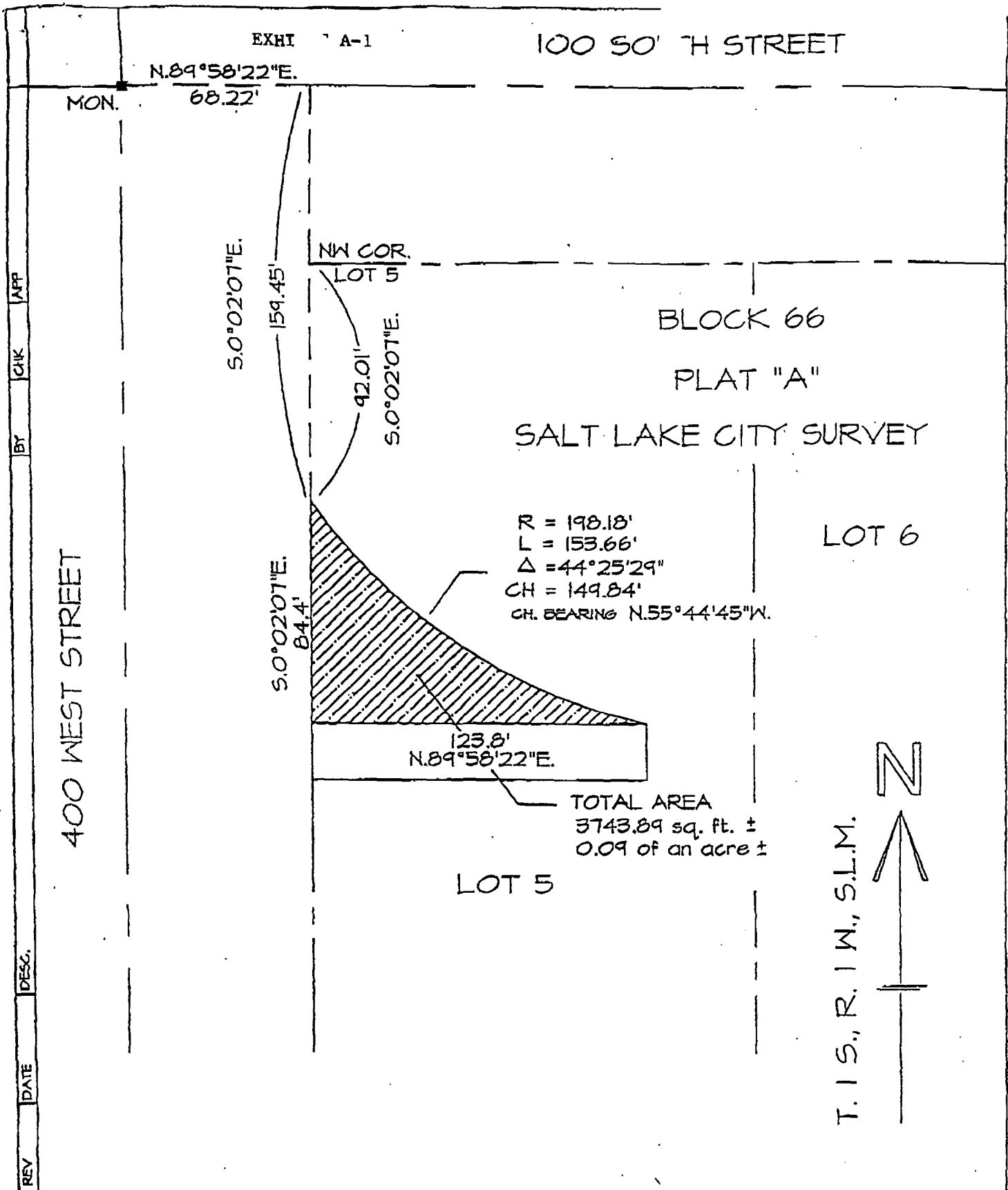
Approved as to form:

Desiree D. Peri
Associate Corporate Counsel

EXHIBIT "A"
PREMISES

A tract of land situate in Lot 5, Block 66, Plate "A" Salt Lake City Survey in the NW3 of Section 1, T.1 S., R. 1 W., S.L.M., Salt Lake County, Utah described as follows:

Beginning on the west line of Lot 5 at a point S. 0° 02' 07" E. 92.01 feet from the northwest corner of said Lot 5, said point also be N.89°58'22" E. 68.22 feet along the city monument line and S.0°02'27" E. 159.45 feet from the monument at the intersection of 100 South Street and 400 West Street, thence S.0°02'07" E. 84.4 feet along said west Lot line, thence N.89°58'22" E. 123.8 feet to a point on a 198.18 foot radius curve to the right, thence northwesterly along said curve 153.66 feet (chord bears N.55°44'45"W. 149.84 feet) to the point of beginning; containing 3743.89 sq. ft., 0.09 of an acre, more or less, as more fully described on the attached drawing.



OCTOBER 4, 1994	LEASE OF 4th SOUTH SUBSTATION PROPERTY TO UTA SALT LAKE CITY, SALT LAKE COUNTY, UTAH	PACIFICORP	PROPERTY MANAGEMENT
SPONSOR: M. WHITLOCK			
SURVEYED BY: NO SURVEY		SHEET 1 OF 1	SCALE 1" = 50'
DRAWN BY: K. E. LEMMONS		PN 11767UTA	REV.
CHK'D BY: PIZZA			
APP: KEITH CORRY / <i>Rio</i>			

ACCESS AGREEMENT

This Access Agreement (the "Agreement") is entered into this 23RD day of September, by and between the United States Environmental Protection Agency ("USEPA"), on behalf of USEPA and its contractor, the United States Department of Transportation ("USDOT"), and the Utah Transit Authority ("UTA").

RECITALS

WHEREAS, USEPA is charged with undertaking environmental response and enforcement responsibilities under federal law;

WHEREAS, USEPA has requested access to the Property to permit USEPA and its employees, authorized agents, contractors, and subcontractors, to perform certain sampling activities on and near property leased by UTA from Pacificorp, and described in Attachment A to this Agreement (the "Property");

WHEREAS, in the spirit of cooperation with a federal agency, and subject to the following terms and conditions, UTA is agreeable to such access.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants, conditions and promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. UTA hereby grants USEPA and its employees, authorized agents, contractors, and subcontractors, access to the Property for the purposes of entering on and moving about the Property as required in order to perform the sampling activities described in connection with the Property in the *Revision 2 - Sampling and Analysis Plan for Libby Sister Sites (Asbestos Project) Former Vermiculite Intermountain Facility - SLC2, Salt Lake City Utah* (the "Sampling Activities") provided to UTA. EPA has received site information from UTA and will consider this information in implementing its sampling methodology as reflected by the August 19, 2003 electronic message of Floyd Nichols to Grantley Martelly.

2. USEPA and its representative shall perform the Sampling Activities on the Property. UTA makes no representations or warranties regarding the condition or nature of the Property. To the full extent permitted by applicable law, each person obtaining access to the Property shall assume responsibility for any bodily injury or death caused by its performance of the Sampling Activities or the actions or omissions of such party on the Property.

3. USEPA acknowledges that it may retain contractors to perform the Sampling Activities. USEPA and USDOT shall be self-insured with respect to the Sampling Activities to the extent required by applicable law. USEPA shall cause any

private contractors or subcontractors to maintain insurance in an amount adequate to cover any reasonably foreseeable liabilities, damages, or injury to persons or property which may result from the Sampling Activities.

4. This Agreement shall take effect on September 23, 2003, and shall continue until the earliest of the following events: (a) three (3) months following such date, or (b) USEPA completes the Sampling Activities that relate to the Property. At least ten (10) hours before USEPA or its employees, authorized agents, contractors, or subcontractors first enter the Property for purposes permitted under this Agreement, USEPA will notify the UTA contact in accordance with paragraph (8) of this Agreement.

5. USEPA and its employees, authorized agents, contractors, and subcontractors shall make every reasonable effort to minimize any disruption to UTA's use of the Property while they are accessing, and carrying out the Sampling Activities on, the Property, and shall perform the Sampling Activities with care, diligence, and cooperation with UTA while they are accessing, and carrying out the Sampling Activities on, the Property. Upon completion of the Sampling Activities permitted under this Agreement, USEPA shall restore the Property to substantially the same condition that existed before USEPA's access to the Property.

6. Various utilities, structures, and electrical conduits may exist on, over and under the surface of the Property. Prior to commencing any work authorized under this Agreement, USEPA shall properly investigate and determine the location of all such utilities, structures, and electrical conduits.

7. USEPA will provide to UTA a copy of any data resulting from the Sampling Activities relating to the Property, as well as any publicly available report on the findings of the investigation.

8. All notices, requests, and other communications pursuant to this Agreement shall be made in writing and sent by facsimile transmission, certified mail, return receipt requested, or by hand delivery, to:

For UTA:

Grantley Martelly, Environmental Compliance Administrator
Utah Transit Authority
3600 South 700 West
P.O. Box 30810
Salt Lake City, Utah 84119
Fax (801) 287-4618

For USEPA:

Floyd Nichols
United States Environmental Protection Agency, Region 8

999 18th Street, Suite 300
EPR-SA-ER
Denver, Colorado 80202-2466


9. By this Agreement, UTA does not waive any provision of the Utah Governmental Immunity Act, Utah Code Annotated §§ 63-30-1 to 63-30-38 (as amended) or any similar statutory damage limitation provision. Nothing provided in this Agreement shall be construed or interpreted as a waiver of any such statutory limitations or protections.

10. The signatories to this Agreement hereby warrant that they are authorized to bind USEPA and UTA, respectively to the terms of this Agreement.

11. This Agreement may be executed in any number of counterparts and by either party hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

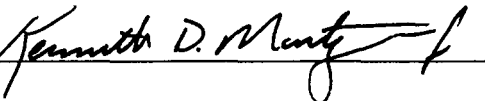
IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed on the day and year first herein written.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

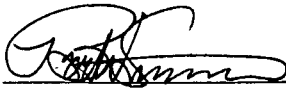
By: 
Floyd Nichols
On-Scene Coordinator
Region 8

UTAH TRANSIT AUTHORITY

By: _____

By: 

Approved as to form:

A handwritten signature in black ink, appearing to read 'Bart W. Simmons', is written over a horizontal line.

Bart W. Simmons
Associate Corporate Counsel

* * * Transmission Result Report (MemoryTX) (Sep. 17. 2003 9:04AM) * * *

1)
2)

Date/Time: Sep. 17. 2003 9:03AM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
0326 Memory TX	93032951895	P. 5	OK	

Reason for error

E. 1) Hang up or line fail
E. 3) No answer

E. 2) Busy
E. 4) No facsimile connection

Access Agreement

rans - UTA

Frank Morris

(303-295-1895)

re: Formiculis Instrument

ps: additional info in out-box.

Hoyt